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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/441,674 11/17/99 LEWIS

M 6622.US.01

023492
ABBOTT LABORATORIES
DEPT. 377 - .AP6D-2
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IM52/0914

EXAMINER

CROSS.L

ART UNIT

PAPER NUMBER

1743

DATE MAILED:

09/14/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

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Office Action Summary

Application No.

09/441,674

Applicant(s)

LEWIS ET AL.

Examiner

LaToya I. Cross

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1743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 November 1999.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4,5,6,7.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-3, 9, 10, 12-18, 21-24, 27 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 5,580,794 to Allen (hereinafter Allen '794).

Applicants' invention is directed to a test strip for use in combination with a measuring device comprising a support, at least one reaction area, and an indicator.

Allen '794 teaches a disposable electronic assay device. The device comprises a test strip containing a sample receptor for receiving a sample to be tested, a sample treatment element for reaction with the sample to yield a detectable change, an electrical signal produced by a detector to correlate the amount of analyte in the sample, and a signal processor for outputting a visually readable result. See abstract. The test strip (10) has a pair of electrodes (12) mounted between the sample receptor zone (14) and the reagent zone (16). (col. 7, line 62 – col. 8, line 15). The reagents may be dry formulated on a matrix which can be a bibulous material such as porous plastic (col. 10, lines 33-43). The reagent zone may comprise reagents such as enzymes, antibodies, antigens, etc. (col. 16, lines 16-21). The detectable change is a change in reflectivity, transmission or electrical current (col. 7, lines 41-61). The signal processing means may include an analog to digital conversion means. Assays for glucose, cholesterol, triglycerides, etc. may be detected by the devices. In addition, single or multiple assays can be done at one time.

Therefore, for the reasons set forth above, Applicants' claimed invention is deemed to be anticipated, within the meaning of 35 USC 102(b), in view of the teachings of Allen '794.

2. Claims 1-8, 10-26 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 5,312,590 to Gunasingham (hereinafter Gunasingham '590).

Gunasingham '590 teaches a device for detecting chemical species in liquids. The test device comprises measuring electrodes (2) and reference electrodes (4) coated with a reaction layer (11) and a membrane layer (12). At least one of the electrodes is made by screen-printing carbon ink onto the base strip (1) (col. 6, lines 35-37). Each of the electrodes is made of gold, platinum, silver, graphite, etc. The measuring apparatus used in conjunction with the test device connects to the reference/working electrode pairs. The device is used in sensing blood glucose levels using the enzyme glucose oxidase.

Therefore, for the reasons set forth above, Applicants' claimed invention is deemed to be anticipated, within the meaning of 35 USC 102, in view of the teachings of Gunasingham '590.

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 5,281,395 to Markart et al teaches an analysis system comprising test layers containing reagents that react with the sample to create a color change in the

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detection layer. The test carrier has a support along with recesses and projections to facilitate measuring of the analytes.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to LaToya I. Cross whose telephone number is 703-305-7360. The examiner can normally be reached on Monday-Friday 8:30 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill A. Warden can be reached on 703-308-4037. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-5408 for regular communications and 703-305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

LIC *AC*

September 7, 2001


Jill Warden
Supervisory Patent Examiner
Technology Center 1700